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April 12, 1972

FILE NO. S-438

CONSTITUTION OF 1970:
Amendatory Veto

Honorable W. Russell Arrington
Senate Minority Leader
327 State House
Springfield, Illinois

Dear Senator Arrington:

I have your recent letter wherein you state:

"Reference is made to your opinion issued October 11, 1971, in response to our inquiry concerning the options open to the General Assembly when the Governor has returned a bill 'with specific recommendations for change' pursuant to Article IV Section 9(e) of the Constitution of 1970.

Experience in the recently completed Fall session of the 77th General Assembly has pointed up related problems in the handling of this type of legislation, the resolution of which may be facilitated by your supplementary opinion, now respectfully solicited.

1. If the Governor returns a bill to the General Assembly under the authority of Article IV 9(e) of the

Constitution of the State of Illinois, 1970, then is it within the province of the General Assembly to override the Governor's veto of the bill by a three-fifths record vote in each House so that the original enactment will become law without the Governor's signature and regardless of his recommended changes?

2. If the Governor returns a bill to the General Assembly under the authority of Article IV 9(e) of the Constitution of the State of Illinois, 1970, and the second House takes any action which is inconsistent with that of the House of origin, may the General Assembly establish a procedure for reconciling the disagreement between the two Houses?

3. Assuming your response to Question No. 2 is in the affirmative, must such a reconciliation of the disagreement between the two Houses take place within:

a) 15 days after the entry of the Governor's objections upon the journal as described in Article IV 9(c); or

b) any specified time period.

4. If the Governor returns a bill to the General Assembly under the authority of Article IV 9(e) of the Constitution of the State of Illinois, 1970, and the initial action of the House in which the measure originated is 'to accept the Governor's recommendations,' and the action of the second House is 'to refuse to accept the Governor's recommendations,' may the House of origin then consider the bill 'in the same manner as a vetoed bill,' and initiate

action to override such veto."

The answer to your first question is in the affirmative. Section 9(e) of Article IV of the Illinois Constitution of 1970 reads:

> "The Governor may return a bill together with specific recommendations for change to the house in which it originated. The bill shall be considered in the same manner as a vetoed bill but the specific recommendations may be accepted by a record vote of a majority of the members elected to each house. Such bill shall be presented again to the Governor and if he certifies that such acceptance conforms to his specific recommendations, the bill shall become law. If he does not so certify, he shall return it as a vetoed bill to the house in which it originated."

When a Constitution is clear and concise on its face, there is no necessity for resorting to any extraneous rules of construction. (Locust Grove Cemetery Ass'n. v. Rose, 16 Ill. 2d 132, 139; Inter. College of Surgeons v. Brenza, 8 Ill. 2d 141, 145; The People v. Gemeinde, 249 Ill. 132, 136; Beardstown et al. v. Virginia et al., 76 Ill. 34, 41-42.) The plain meaning of the language employed in the Constitution constitutes the limits within which that document can be construed.

Section 9(e) in providing that ". . . The bill shall be considered in the same manner as a vetoed bill but the specific recommendations may be accepted by a record vote of a majority of the members elected to each house." authorizes each House to vote to over-ride the veto within the time and by the vote required in Section 9(c) of Article IV, in which case the original enactment will become law without the Governor's signature and regardless of his recommended changes.

The clarity of the constitutional language, as well as the foregoing interpretation, is borne out in a Constitutional Convention committee report on a draft of 9(e) which was substantially similar to the current language.

> "* * * The Subsection makes it clear that, the first time around, the General Assembly may either override the Governor by a three-fifth's vote or accept his recommendations by a majority vote, * * *" (Sixth Illinois Constitutional Convention Style, Drafting and Submission Committee Proposal Number 10, pages 48 and 49.)

The answers to your questions numbered 2, 3 and 4 are predicated upon adoption by the General Assembly of rules implementing the procedures authorized by the Constitution

as outlined herein. Question 2, requires analysis of the language of Section 9(c) of Article IV of the Illinois Constitution of 1970 which reads:

> "The house to which a bill is returned shall immediately enter the Governor's objections upon its journal. If within 15 calendar days after such entry that house by a record vote of three-fifths of the members elected passes the bill, it shall be delivered immediately to the second house. If within 15 calendar days after such delivery the second house by a record vote of three-fifths of the members elected passes the bill, it shall become law."

In addition to the 15 calendar day restriction, the use of the terms "record vote", "delivered" and "immediately" are critical in analyzing Section 9(c) in relation to the amendatory veto procedures.

The 15 day requirement of Section 9(c) is absolute. Any action taken after that period as applied to either House of the General Assembly is nugatory. Equally emphatic is the command of the Constitution that after a "record vote" in the first House, either in favor of accepting the Governor's recommendations for change or of overriding the veto, the bill shall be "delivered immediately" to the second House. Thus, if there is a

record vote to either accept or override and the bill is thereafter immediately delivered to the second House, the first House can take no further action with regard to that bill, unless of course it is returned again by the Governor as a vetoed bill after his refusal to certify that the General Assembly has accepted his recommendations. After such delivery, the second House can agree with the action of the first House, in which case the bill is returned to the Governor if that action has been to accept his recommendations for change, or the bill becomes law if action in both Houses has been to override the veto.

This construction is implicit in the language of the Constitution and a contrary interpretation of Section 9(e) would make confusing that which is now clear. Any right or authority in the first House to reconsider its action after its record vote and delivery to the second House would confuse computation of the time within which the second House must act. Further, if the first House could reconsider its record vote any time within the 15 day limit there would be no justification under the

language of the Constitution to differentiate between a change of mind because the second House disagrees or a change of mind if the second House agrees. The intent to authorize such a procedure cannot be attributed to the Constitutional Convention or the plain meaning of the language used. Either the first House has the right to change its record vote or it does not. Throughout the Constitutional debates on the amendatory procedures the Convention sought to avoid this so called "ping pong effect" from maneuvering bills back and forth between the two Houses of the Legislature and the Governor. In my opinion, the Constitutional Convention has used language which clearly, effectively and consistently prohibits that maneuvering; but it was not the intention of the Convention to outlaw or prohibit unofficial, informal discussions, or even floor action of a less final nature than an "record vote", prior to final action by record vote. In fact, the Convention felt that strict limits on formal procedures would encourage informal and unofficial exchanges. (Verbatim Transcript, Sixth Constitutional Convention, May 28, 1970, Volume II, pages 356 and 357.)

However, within the confines of this interpretation, there is nothing to prohibit rules of legislative procedure which would authorize action in both Houses, short of a "record vote", by which the two Houses may reach agreement, so long as official action by means of a record vote is taken in each House within the 15 day time limit.

Therefore, in response to your question numbered 2, if by your question you mean that the first House has already taken a record vote and delivered the bill to the second House, then the answer is in the negative. If the final action in the second House is inconsistent with that of the first, the bill remains vetoed.

Since my answer to what I understand to be your question numbered 2 is in the negative, there is no need to respond to your question numbered 3, except to refer you to the previous discussion herein involving the 15 day limitation.

I have already answered your question numbered 4 indirectly and in the negative, assuming again that by "initial action" in the first House you mean that a record

vote has been taken and the bill delivered to the second House. Under the situation in your question numbered 4, the bill is dead. If, however, the action in the first House, pursuant to procedural rules adopted by the General Assembly, is not a record vote and no delivery to the second House has taken place, the first House is free to take whichever action it wishes, either accept or override, within the 15 day period.

Very truly yours,

ATTORNEY GENERAL